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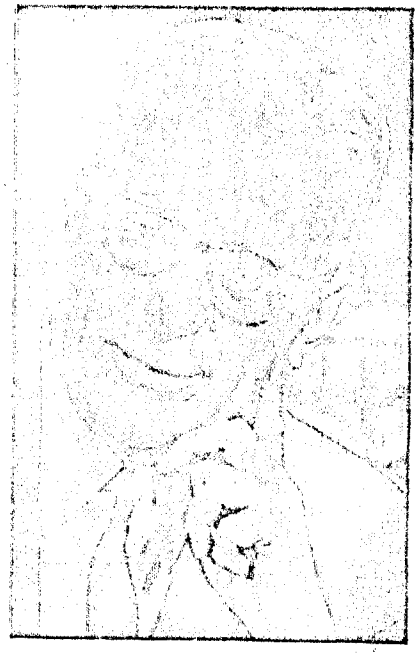
Calendar

Doubts Cast on Validity of the Warren Report

BY ROBERT R. KIRSCH

INQUEST: The Warren Commission and the Establishment of Truth by Edward Jay Epstein (The Viking Press: $5; illustrated).



CHIEF JUSTICE EARL WARREN

The Warren Report

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tion on which they are based."

Instead, he bases his study on a dispassionate assessment of the initiation, organization and direction of the investigation, its scope and limits, the practical concerns of gathering information and writing the report. His sources are the commission's report and the 26 volumes of testimony and exhibits, the investigative reports in the U.S. National Archives (except for those which remain classified), the working papers of the commission, supplied by a member of the staff, Wesley J. Liebeler (whose critique of the commission report is extensively quoted), and interviews with five of the seven members of the commission, with numerous staff members including J. Lee Rankin, the commission's general counsel.

Because of his access to the working papers and the remarks of the staff, Epstein is able to report the complex tangle of viewpoints and conflicts in the course of the 10-month investigation.

An Iffy Question

His evaluation of the evidence regarding Oswald must be read in its careful step - by - step development. Whether you accept the doubt raised in that account or not, it certainly suggests that there remains much to be done, many questions to be answered. Perhaps the first would be the release of the complete transcript of the interrogation of Oswald up to the time of his death.

More important, however, is his critical assessment of the commission and its methods both in practical terms and in the larger context of "truth-finding in a political environment." Without questioning the motives of the commissioners, he points out and underscores the truism that "a governmental inquiry does not take place in a vacuum." "Political truth" as he terms it is affected by situations in which "the nation's faith in its own institutions was held to be at stake."

Thus, the dualism between the explicit purpose ("to ascertain, evaluate, and report" according to Executive Order 11130 which established the commission) and the implicit purpose, as

● What began as a master's thesis in government at Cornell University has emerged as nothing less than an explosive piece of superior journalism, raising important and challenging questions about the methods and the conclusions of the Warren Commission; and a supple and lucid essay on political science, which penetrates some of the dilemmas in contemporary government.

All of this is done in a brief book (156 pages of text, some 61 pages of notes, appendices, and index) but a volume in which all the major issues are stated and examined, and containing a phenomenal amount of information on both the assassination of President Kennedy and the practical operation of the commission which investigated the circumstances of that crime.

Epstein does not resolve the questions. He does, however, put together a convincing argument that the commission and its staff, operating under staggering pressures of time and complication, torn by a dualism in purpose ("If the explicit purpose of the commission was to ascertain and expose the facts, the implicit purpose was to protect the national interest by dispelling rumors"), confused by a lack of precedent in procedures, accomplished less than was claimed for it, ultimately produced, in Epstein's words, a "version of the truth . . . to reassure the nation and protect the national interest."

Doubts Persist

One of the persistent doubts it failed to dispel, Epstein shows through a brilliant ordering of the evidence, is whether Oswald alone committed the crime. He does not question Oswald's involvement in the assassination. But he suggests that to hold it a single-handed action is to ignore evidence (or as the commission may have done, to slight inconvenient evidence) that more than three shots were fired on the day President Kennedy was killed and Gov. Connally was wounded.

In order to sustain the conclusion that Oswald was the sole assassin, it was necessary to accept the theory that Gov. Connally was wounded by a bullet which had passed through the body of President Kennedy. For the film taken by an amateur movie photographer, Abraham Zapruder, enabled investigators to reconstruct both the time sequence and the position of the car in relationship to the window of the Texas Book Depository from which at least three shots were fired.

"The Zapruder film shows that the assassination could have been committed by one man alone only under one condition: that Kennedy and Connally were hit by the same bullet," Epstein concludes. "However, the FBI Summary and Supplemental Report's statements on the autopsy, if accurate, preclude this condition. (They state, it will be recalled, that the first bullet did not exit from the front of the President's body.) Furthermore, even if the Summary and Supplemental Report are inaccurate" (both incidentally are reprinted in part as appendices) "other evidence arose which showed that it was not possible that both men were hit by the same bullet. Unless the basic facts and assumption established by the commission are incorrect, there is a strong case that Oswald could not have acted alone."

He goes on: "It is true that the commission found no evidence that others were involved with Oswald in the assassination, but, as has been shown, the investigation was by no means exhaustive or even thorough. The question thus remains: How far did the commission go in approaching the threshold question of a second assassin?"

Not Far Enough

Certainly not far enough, according to Epstein, and reportedly according to many staff members who were interviewed by him. When the commission reached its conclusions, after what one commissioner called "the battle of the adjectives," the wording was "The commission has found no evidence of a conspiracy." It was Rep. Ford who insisted that this language be used rather than a categorical statement in the draft that there was no conspiracy. Commissioner McCloy urged the following qualification:

"Because of the difficulty of proving a negative to a certainty, the possibility of others being involved with either Oswald or Ruby cannot be rejected categorically, but if there was any such evidence it has been beyond the reach of all the investigative agencies of the United States and has not come to the attention of this commission."

Epstein suggests that the last phrase is more accurate. But he does not either imply or state directly that there was any purposeful suppression of evidence. He rejects the two diametrically opposed categories in which most writing about the assassination falls: "demonology and blind faith."

"Writers in both camps seem to subscribe to an assumption of governmental omnipotence—i.e. that the government can do whatever it sets out to do. Thus the demonologists reason that as all the facts were not revealed, the Warren Commission must have been party to a conspiracy to suppress evidence. The blindly faithful reason that as the Warren Commission would not be party to a conspiracy, all the pertinent evidence must therefore be known." He makes it clear that "this study rejects both lines of reasoning because it rejects the common assump-

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conceived by some of the commissioners. McCloy: "to show the world that America is not a banana republic, where a government can be changed by conspiracy." Sen. Cooper: "to lift the cloud of doubts that had been cast over American institutions." There was the pressure of public curiosity and the pressure from the White House on the timing of the report.

"The two purposes," Epstein writes, "were compatible so long as the damaging rumors were untrue. But what if a rumor damaging to the national interest proved to be true? The commission's explicit purpose would dictate that the information be exposed regardless of the consequences, while the commission's implicit purpose would dictate that the rumor be dispelled regardless of the fact that it was true. In a conflict of this sort, one of the commission's purposes would emerge as dominant."

Yet, it is in practical terms that Epstein is most critical (always gently and soberly). Among the most important: the commission members were necessarily part-time and could not devote the necessary complete attention to the investigation (attendance records ranged from Sen. Russell who heard about 6% of the testimony to Allen Dulles who heard 71%; the average 45%); the commission had no independent investigating group, had to depend on government investigating agencies, some of whom were under question themselves and hardly enthusiastic in their cooperation; the division of areas of concern which tended to fragment the portions of the inquiry; the press of time; the emphasis on tangential matters, "less than one-third of the commission hearings—about 81 hours out of a total of 244—dealt with pertinent facts of the assassination"; the failure to use adversary means of questioning; the selection of witnesses and the decisions as to credibility.

Report Challenged

When some of the staff asked tough questions they were reprimanded. When others doubted Marina Oswald's testimony, wished to examine her further, Chief Justice Warren closed the possibility by saying he considered himself to be "a judge of human beings" and he and the other commissioners fully believed her testimony.

In the writing of the report, the selection and interpretation of evidence buttressed certain versions. Epstein gives a number of examples of pertinent evidence overlooked, rejected or unexplored, and these particularly in expert testimony and in the statements of certain eyewitnesses.

Richard H. Rovere, who has provided an introduction to the book, says that he is convinced that Epstein has successfully challenged the claims made for the Warren Commission Report in Harrison Salisbury's statement that the investigation was "exhaustive" and that "no material question remains unresolved."

Perhaps most important is Rovere's tribute to Epstein as "a single scholar" who has done what the American press should have done when the Warren Commission report was issued: "It should have cast a very cool eye on the report and sought to learn from those who prepared it how it was prepared, who did the heavy work, and what individual workers thought of the collective product. Mr. Epstein's scholarly tools happen to be those employed day in and day out by journalists. But the press left it to a single scholar to find the news."

It is a point well taken and I hope a lesson.